

IN THE UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF WISCONSIN

U.S. DISTRICT COURT
EASTERN DISTRICT-WI
FILED

2018 JUL -5 P 1: 57

STEPHEN C. DRIES
CLERK

Plaintiff:

Gary L Barnes

Pro Se,

v.

Case Number: **18-C-1025**

Defendant:

United States President Donald Trump

COMPLAINT AND REQUEST FOR INJUNCTION

I. The Parties to this complaint

A. Plaintiff

Plaintiff is a citizen of the United States:

Gary L Barnes

2357 Sunny Lane Apt G

Suamico, WI 54313

(920) 737-1180

garybarnes@twc.com

B. Defendant

Defendant is the President of the United States:

President Donald Trump

1600 Pennsylvania Avenue NW

Washington, DC 20006

II. Basis for Jurisdiction

I am suing for a violation of the provisions of the United States Constitution and the Trade Act of 1974, TITLE II, Section 201, by President Donald Trump, under 28 U.S.C. § 1331;

- A. 28 U.S. Code § 1331, Federal question, states: "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."

I am suing to compel President Donald Trump to do his duties as directed by the United States Constitution under 28 U.S. Code § 1361 - Action to compel;

- B. 28 U.S. Code § 1361, Action to compel an officer of the United States to perform his duty: "The district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff."

I am suing for preliminary injunctive relief and permanent injunctive relief to stop the threat to the provisions of the United States Constitution and the threat to the income, of the citizens of the United States, by the increase in cost of products that will be caused by the unconstitutional import taxes imposed by President Trump;

III. Specific issues in this complaint are;

- C. Violation of the United States Constitution, Article 1, section 8, tariffs and trade with foreign countries.
- D. Violation of the provisions of the Trade Act of 1974, TITLE II, Section 201.

IV. Controversy

- E. At controversy in this complaint, are import tariffs (imposts, taxes) being imposed by the President of the United States instead of Congress.

V. Purpose of complaint

- F. This action has been brought to protect, uphold and enforce the provisions of the United States Constitution regarding the sole power of the United States Congress to impose tariffs on imports of products from foreign countries.
- G. This action challenges the illegal exercise of authority by President Trump, the Executive Branch of our government, in the misinterpretation of the Trade Act 1974, TITLE II, Section 201, as authorization to impose tariffs on foreign products being imported into the United States.

VI. Statement of claim

Plaintiff Gary L Barnes comes before the United States District Court for the Eastern District of Wisconsin and states his claim against President Donald Trump as follows:

1. On April 24, 2017, President Trump imposed a tariff of 24 percent on Canadian lumber imported into the United States;
2. On January 22, 2018, he imposed a 30 percent tariff on solar panel technology
3. On January 22, 2018 he imposed a 20 percent tariff on washing machines imported into the United States;

4. On March 8, 2018, he imposed a 25 percent tariff on steel and a 10 percent tariff on aluminum imported into the United States;
5. On June 15, 2018, he imposed a 25% tariff on \$50 billion worth of Chinese products imported into the United States;
6. He is planning to impose more tariffs on other imported products;
7. The imposing of tariffs occurred in Washington, D.C.;
8. The imposing of tariffs also has an influence on trade with foreign countries;
9. The Trade Act of 1974, TITLE II, Section 201 was used as the document which President Trump believes authorizes him to impose import taxes on products being brought into the United States;
10. The Trade Act of 1974, TITLE II, Section 201 does not authorize the President of the United States to impose such tariffs.
11. The United States Constitution is the supreme law of the land;
12. The United States Constitution is a contract between the United States Government and the United States Citizens that;
 - a. grants rights to the United States Citizens;
 - b. explains the duties of and how the United States Government's branches are to conduct the business of the United States;
 - c. authorizes the United States Congress as the only branch of government to impose imposts (tariffs) on products brought into the United States;
 - d. does not authorize the President of the United States to impose tariffs on products being brought into the United States;

13. The act of imposing tariffs, by President Trump, is absolutely unconstitutional and unlawful;
 14. President Trump's imposing of tariffs is contradictory to the United States Constitution;
 15. Therefore, those tariffs are without force;
 16. President Trump is guilty of;
 - a. violating the provisions of the United States Constitution;
 - b. violating his oath of office;
 - c. breach of contract;
 - d. malfeasance;
 17. Manufacturers and businesses will pass the cost of doing business, caused by the import taxes, on to the consumers;
 18. Therefore, any import taxes imposed by President Trump will adversely affect all United States citizens.
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VII. Pleadings in support of claim

19. On January 20, 2017, Donald Trump was sworn in as President of the United States.
20. President Trump has been imposing tariffs on products being brought into the United States of America since April 24, 2017.
21. On April 24, 2017, he imposed a tariff of 24 percent on Canadian lumber.
22. On January 22, 2018, he imposed a 30 percent tariff on imported solar panel technology.
23. On March 8, 2018, he imposed a 25 percent tariff on steel and a 10 percent tariff on aluminum from China.
24. On June 3, 2018, he expanded the steel and aluminum tariffs to include other countries

25. The President imposed these tariffs using a presumed authority granted by the Trade Act of 1974, TITLE II, Section 201.
26. The Trade Act of 1974, TITLE II, Section 201 reads in part, “..... the President, in accordance with this chapter, shall take all appropriate and feasible action *within his power*”
27. “Within his power” refers to the President’s constitutional powers.
28. The United States Constitution does not, in any way, authorize the President of the United States to impose tariffs on foreign products, imported into the United States.
29. Therefore, the Trade Act of 1974, TITLE II, Section 201 does not and cannot, in any way, authorize the President of the United States to impose tariffs on products, imported into the United States.
30. President Trump incorrectly assumed the Trade Act of 1974, TITLE II, Section 201 authorized him to impose tariffs on foreign products, imported into the United States.
31. In the Judiciary Act of 1789, Congress tried to give the Supreme Court the authority to issue certain judicial writs.
32. The Supreme Court, in establishing the judicial review doctrine, ruled, in *Marbury v. Madison* (1803), “*The Constitution did not give the Court this power. Because the Constitution is the Supreme Law of the Land, the Court held that any contradictory congressional Act is without force.*”
33. Because the Constitution does not give the President authority to impose tariffs on imported products, any act by Congress, to give the President authority to impose tariffs on imported products, would, therefore, be contradictory and without force.

34. The President cannot gain authority, specifically granted to Congress by the US Constitution, by any law or act enacted by Congress.
35. This would contradict the United States Constitution, the supreme law of the land.
36. One branch of government cannot relinquish a duty specifically reserved to it by the United States Constitution.
37. The United States Constitution Article 1, section 8, specifically grants the power of raising money, through imposts (tariffs), "to pay the debts and provide for the common defence of the United States", to Congress alone.
38. The United States Constitution, Article I, Section 8, gives Congress the power "To regulate commerce with foreign nations"
39. Congress cannot relinquish authority expressly granted to it, by the United States Constitution, through the passage of a law.
40. One branch of the government cannot arbitrarily take over the constitutional duties of another branch of government.
41. One branch of government performing the duties of another branch of government;
- a. violates the separation of powers of the United States Constitution.
 - b. violates the checks and balance of powers of the United States Constitution.
42. A contract describes the duties and rights of those affected by it.
43. Therefore, the United States Constitution is a contract written, by the founders of the United States, to explain, to the United States citizens, how their United States Government is supposed function.
44. Tariffs, regardless of the reason for imposing them, raise revenue that goes into the General Fund.

45. President Trump took an oath to obey and uphold the United States Constitution.
46. President Trump owes a duty to myself and all other United States citizens to perform his duties as the United States Constitution requires.
47. Numerous news media have reported the events concerning the imposing and outcome of import taxes by President Trump and the effect they will have.

VIII. Damages caused by, and that will be caused by, President Trump's imposing of tariffs

48. President Trump's actions to impose tariffs on foreign products brought into the United States;
 - a. seriously undermine the division of powers that are contained in the United States Constitution;
 - b. seriously undermine the balance of powers that are contained in the United States Constitution,
 - c. put an indirect tax on United States citizen's income through an increase in the cost of product prices paid by consumers.
49. Damages caused by the increase in product prices will not be able to be calculated.
50. President Trump's actions violate the contract (the United States Constitution) the United States Government has with the citizens of the United States.
51. President Trump's actions violate the constitutional rights of the United States citizens to have their Congressional Representatives impose taxes that, in the end, affect their income, through product price increases

52. President Trump's actions of a single person imposing tariffs are like that of a king or dictator.
53. President Trump's actions, to impose tariffs, violate the Oath of Office he took.
54. President Trump's actions, to impose tariffs, violate the duty he has to myself and all the United States citizens.
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IX. Standing to bring complaint

55. I, Gary L Barnes, now claim to have the inalienable and unchallengeable right and duty, as a citizen of the United States, to take action to defend and uphold the provisions of the United States Constitution in a United States District Court because Amendment I of the United States Constitution grants me the authority to "petition the government for a redress of grievances."
56. I, Gary L Barnes, also now claim to have the inalienable and unchallengeable right and duty, as a citizen of the United States, to take action to defend and uphold the provisions of the United States Constitution in a United States District Court, because, Attorney General Jeff Sessions and the Department of Justice have refused to do their duty, which is owed to the United States and its citizens.
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X. Pleadings in support of Standing to bring complaint

57. Amendment I of the United States Constitution states; "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievance."

58. This action has been brought to uphold and enforce the provisions of the United States Constitution.
59. I mailed a letter, on February 12, 2018, by certified mail, to United States Attorney General Jeff Sessions.
60. The letter informed him the United States Constitution does not grant the President any power to impose tariffs on foreign products imported into the United States.
61. I also, in the letter, requested the Department of Justice, with him, Jeff Sessions, as the United States Attorney General, take the appropriate actions to have the 30% tariff, on solar technology, imposed by the President, declared unconstitutional.
62. Delivery of the letter was made on Tuesday, February 20, 2018.
63. I have not received any communication from Attorney General Jeff Sessions or the Department of Justice regarding my request.
64. It has been over four months, and there hasn't been any indication Attorney General Jeff Sessions or the Department of Justice has initiated or is going to initiate any action to correct the matter of the President imposing tariffs.
65. The President has since imposed additional tariffs on foreign products being brought into the United States.
66. In *US v Nixon*, 1974, the Supreme Court held the President is not above the law.
67. A Time interview, April 9, 2018 issue, quotes Attorney General Jeff Sessions as saying "Congress passes a law, judges follow the law, and nobody is above the law, including judges, and including the President."
68. The United States Constitution is the supreme law of the land.

69. Attorney General Jeff Sessions and the Department of Justice should have known the United States Constitution does not authorize the Office of President to impose import taxes (tariffs) on foreign products being brought into the United States.
70. Attorney General Jeff Sessions and the Department of Justice should have initiated an action to correct this violation of the United States Constitution.
71. Attorney General Jeff Sessions and the Department of Justice have refused to do their duty to defend and uphold the United States Constitution.
72. Attorney General Jeff Sessions and the Department of Justice appear to have pledged allegiance to President Trump instead of pledging allegiance to the United States, its Constitution and its citizens.
73. Therefore, any action to compel Attorney General Jeff Sessions and the United States Department of Justice to do their duty to the United States and its citizens would be a waste of time.
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XI. Relief wanted

74. A ruling that the President of the United States does not have any authority, Constitutional or otherwise, to impose import taxes on foreign products being brought into the United States.
75. A ruling that the President of the United States cannot be granted the authority, by any act of Congress, to impose import taxes on foreign products being into the United States.
76. A ruling that the President of the United States does not have any authority, Constitutional or otherwise, to regulate commerce (trade) with foreign nations, among the states and with Indian tribes.

77. A ruling that the President of the United States cannot be granted any authority, by any act of Congress, to regulate commerce (trade) with foreign nations, among the states and with Indian tribes.
78. A preliminary injunction to end the collection of unconstitutional tariffs that have been imposed by President Trump.
79. A permanent injunction to end the collection of unconstitutional tariffs that have been imposed by President Trump.
80. A permanent injunction to stop President Trump from imposing any more unauthorized and unconstitutional tariffs.
81. An order to compel President Trump to perform his duties according to the United States Constitution.
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XII. Jury demand

I want a jury to hear my case. ☐ YES ☒ NO

XIII. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

I **DO NOT** request that I be allowed to file this complaint without prepaying the filing fee under 28 U.S.C. § 1915, and I have included the full filing fee with this complaint.

Date of signing: July 3rd, 2018

Signature of Plaintiff: Gary L Barnes

Printed name of Plaintiff: Gary L Barnes